

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CURTIS RAY HALL

vs.

CHRISTOPHER A. COSGROVE and J.B.  
HUNT TRANSPORT, INC..

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Civil Action No.

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. 1332, 1441 and 1446, Defendant J.B. Hunt Transport, Inc. (“Defendant”) files this Notice of Removal from the 191st Judicial District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division, and respectfully states the following:

**State Court Action**

1. On December 9, 2014, Plaintiff, Curtis Ray Hall (“Plaintiff”) initiated this action by filing Plaintiff’s Original Petition, (the “Petition”), Cause No. DC-14-14252, in the 191<sup>st</sup> Judicial District Court of Dallas County, Texas (the “State Court Action”) against Christopher A. Cosgrove and J.B. Hunt Transport, Inc. (“Defendants”). Plaintiff asserts claims of negligence against the Defendants. Plaintiff demanded a jury trial in the state court action.

**Timeliness of Removal**

2. Defendant, J.B. Hunt Transport, Inc. was served with Plaintiff’s Original Petition on December 15, 2014. Although Plaintiff’s Original Petition correctly alleged J.B. Hunt was a foreign corporation, Plaintiff’s Original Petition alleged Defendant Christopher A. Cosgrove to

be a resident of the state of Texas. Therefore, removal to federal court was not appropriate. On July 7, 2015, an Order was entered appointing a Guardian Ad Litem for Defendant, Christopher A. Cosgrove. An Answer was filed on his behalf on July 15, 2015. Plaintiff served his First Amended Petition on August 5, 2015, via facsimile, wherein he alleged that Christopher Cosgrove was a resident of the state of Florida.<sup>1</sup> The following day, August 6, 2015, Plaintiff filed his Second Amended Petition with the same allegation. Defendant J.B. Hunt's receipt of Plaintiff's First Amended Petition, was the first receipt of papers from which Defendant, J.B. Hunt Transport, Inc. was able to ascertain that the case was removable. Defendant files this Notice of Removal within thirty days after receipt of Plaintiff's First Amended Petition. Defendant Christopher Cosgrove has consented to the Removal. *See*, Consent to Removal attached here as Exhibit A. Thus, pursuant to 28 U.S.C. 1446(b)(3), Defendant's removal of this action is timely.

### **Grounds for Removal**

3. The State Court Action may be removed to this Court, pursuant to 28 U.S.C. 1441(a), because this court has original jurisdiction of the claims and parties in the State Court Action pursuant to 28 U.S.C. 1332. The United States District Court for the Northern District of Texas, Dallas Division, is the proper venue for this action under 28 U.S.C. 1441(a) because it presides over the district and division within which the State Court Action was filed (Dallas County).

4. Plaintiff is now, and was at the time the action commenced, a resident and citizen of the State of Texas. *See* Plaintiff's Original Petition attached herein as Exhibit D.

5. Defendant J.B. Hunt Transport, Inc., is now, and was at the time the action was commenced, a Georgia corporation with its principal place of business in Lowell, Arkansas.

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<sup>1</sup> Plaintiff's First Amended Petition was not filed in state court.

Thus, Defendant is a citizen of both Georgia and Arkansas. Defendant Christopher A. Cosgrove is alleged in Plaintiff's First and Second Amended Petitions, to be a resident of the state of Florida. Complete diversity of citizenship exists between Plaintiff and Defendants.

6. The amount in controversy exceeds \$75,000, excluding interest, costs and attorney's fees. See, Plaintiff's Second Amended Petition, attached hereto as Exhibit JJJ.

#### **Required Documents**

7. The following documents are attached in accordance with LR81:
- (a) A copy of the executed process in the case, attached as hereto as Exhibit G,  
Exhibit LL and Exhibit MM.
  - (b) A copy of the docket sheet in the State Court Action, attached hereto as  
Exhibit PPP;
  - (c) An index of all documents filed in the State Court Action, attached hereto as  
Exhibit QQQ;
  - (d) Certificate of Interested Person attached hereto as Exhibit RRR;
  - (e) True and correct copies of all documents filed in the stated court action,  
attached hereto as Exhibit B through Exhibit OOO.

#### **Notice of Removal**

8. Pursuant to 28 U.S.C. 1446(d), written notice of the filing of this Notice of Removal to all adverse parties and a true and correct copy of this Notice of Removal will be filed with the Clerk of the 191<sup>st</sup> Judicial District Court of Dallas County, Texas.

**Request for Relief**

Defendant requests the following relief:

- (a) That the Court make such orders, if any, and take such action, if any, as may be necessary in connection with the removal of the State Court Action to this Court; and
- (b) Such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

**RUSSELL & WRIGHT, PLLC**

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**ATTORNEY FOR DEFENDANT J.B. HUNT  
TRANSPORT, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 13<sup>th</sup> day of August 2015, a true and correct copy of this pleading has been served on counsel of record pursuant to the electronic filing procedures in this district:

/s/ Michael C. Wright  
Michael C. Wright